EXHIBIL 3

2001 THERM DISTRICT OF NEW YORK UNITED STATES DISTRICT COURT

AS TRUSTEES,

AS TRUSTEES,

MICHAEL J. FORDE and PAUL O'BRIEN,

CITY AND VICINITY CARPENTERS LABOR

CITY AND VICINITY CARPENTERS LABOR

FUND, NEW YORK CITY DISTRICT COUNCIL OF

CARPENTERS APPRENTICESHIP, JOURNEYMAN

FUND, NEW YORK CITY DISTRICT COUNCIL OF

CARPENTERS APPRENTICESHIP, JOURNEYMAN

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CLAIM DEFENSES AND COUNTER-ANSWER, AFFIRMATIVE

Plaintiffs,

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B&A INTERIORS, LTD.,

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Defendant, B&A INTERIORS, LTD., by its attorney, RICHARD S. BONFIGLIO, ESQ.,

That it lacks knowledge sufficient to form a belief as to the truth of the allegations

by way of Answer to the Plaintiffs' Complaint, respectfully alleges as follows:

made in the paragraphs denominated as Nos. 5 and 6 of the Complaint.

2. That it admits an award was made by an arbitrator on February 20, 2007, as alleged in the paragraph denominated as No. 12 of the Complaint, and denies each and every other allegation made therein, as said award was entered on an unintentional default in appearing by the Answering

Defendant.

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That it admits an arbitrator awarded interest, as alleged in the paragraph denominated ٠, in appearing by the Answering Defendant. and every other allegation made therein, as said determination was made on an unintentional default contributions, as alleged in the paragraph denominated as No. 13 of the Complaint, and denies each

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That it admits an arbitrator found that the Answering Defendant failed to make

.ζ That it denies each and very allegation made in the paragraph denominated as No. 15 determination was made on an unintentional default in appearing by the Answering Defendant. as No. 14 of the Complaint, and denies each and every other allegation made therein, as said

of the Complaint.

V2 VND ŁOK V ŁIKST AFFIRMATIVE DEFENSE

.I The Plaintiffs' fail to state a claim upon which relief can be granted.

AS AND FOR A FIRST COUNTER CLAIM

- The Answering Defendant is a domestic corporation, duly organized and existing .1
- In or about January, 2007, the Answering Defendant received written notice of .2 under the laws of the State of New York.
- payment of contributions by the Answering Defendant. Plaintiffs' intent to arbitrate a dispute between the parties pertaining to an alleged deficiency in
- The deficiencies alleged by Plaintiffs were based upon an audit of the Answering ξ.
- of the Answering Defendant, made timely complaint to Plaintiffs that the said audit report was Upon receipt of the Plaintiffs' auditor's report, Alex Caperna, the sole shareholder 4. Defendant's books and records made by Plaintiffs' auditors during 2006.

Page 2 of 5

insufficiently documented so as to permit the Answering Defendant to rebut the allegations of

deficiency made therein.

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March 31, 2006.

through March 31, 2006.

- denominated as the NYDCC Audit Hours by Week Ending Date, for the period July 1, 2002 through .ς Specifically, Plaintiffs' audit report was supported in part with a document
- for whom a deficiency was alleged. enable the Answering Defendant to refute the asserted deficiencies with respect to both employees the identity of the employee, the specific pay period, by week and other information sufficient to That document supplied the Answering Defendant with sufficient particularity as to .0
- by week, for which such deficiencies were asserted. because of the lack of particularity as to the identity of the employee, and the specific pay period, substantial deficiencies were alleged, but for which the Answering Defendant had no ability to refute Hours by Week Ending Date, for the period July 1, 2000 through June 30, 2001, for which period

The Plaintiffs' audit report was not supported with a comparable NYDCC Audit

- period July 1, 2000 through June 30, 2001 comparable to those provided for the period July 1, 2002. Plaintiffs letter dated October 24, 2006, and requested particulars of the alleged deficiencies for the The said Alex Caperna, acting on behalf of the Answering Defendant wrote to the .8
- Plaintiffs instead served notice of intention to Arbitrate. '6
- Answering Defendant wrote to the Plaintiffs letter dated February 6, 2007, reiterating his request for Prior to the date set for Arbitration, Mr. Caperna again acting on behalf of the .11 Caperna inadvertently mis-calendared the date as February 20, 2007 instead of February 13, 2007. Upon receipt of the notice setting the date, time and place for the Arbitration, Mr. .01

adequate particulars of the alleged deficiencies for the period July 1, 2000 through June 30, 2001;

and, advising Plaintiffs of his intention to appear at the Arbitration and defend same.

Defendant failed to appear on the date set in the notice and on February 20, 2007 an Arbitrator

Because of the inadvertent mis-calendaring of the date for Arbitration, the Answering

issued and Opinion and Award, on default, awarding the Plaintiffs the total alleged deficiencies.

books and records of the Answering Defendant. The deficiencies alleged by the Plaintiffs are erroneous and not supported by the .EI

The failure or refusal of the Plaintiffs to furnish the Answering Defendant with .4.

sufficient particulars to fully refute the alleged deficiencies is likewise unlawful and improper.

The Answering Defendant's failure to appear at the Arbitration was neither .čI

intentional nor due to wilful neglect.

The Answering Defendant is possessed of a meritorious defense to the Plaintiffs' '91

claims.

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The Answering Defendant has no adequate remedy at law. .7 I

WHEREFORE, the Answering Defendant demands judgement as follows:

Dismissing the Complaint in its entirety and each and every cause of action set forth therein.

Granting the Answering Defendant judgment on the counter-claim, vacating the Arbitrator's

Award in its entirety; restoring the matter to the Arbitration Calendar, and, directing the

Plaintiffs to supply the Answering Defendant, prior to such restoration, with adequate

particulars of any alleged deficiencies for the period July 1, 2000 through June 30, 2001

having the equivalent particularity as that supplied for the period July 1, 2002 through March

31, 2006.

Awarding the Answering Defendant its costs and disbursements of suit; including, but not ξ.

limited to by reason of specification, a suitable allowances for attorneys fees.

- ancillary relief as to the Court may seem just and proper in such case made and presented. During the pendency of this action granting the Answering Defendant such pendente lite and .4
- Granting the Answering Defendant such other further and different relief as to the Court may .ζ
- seem just, proper and equitable.

Dated: Brooklyn, New York

September 12, 2007

KICHYKD 2. BONFIGLIO, ESQ. The Law Firm of Yours, etc.,

Brooklyn, NY 11209-5702 238 - 92nd Street woolooka ale marka RICHARD S. BONFIGLIO, ESQ. [RSB 7778] By:

Attorney for Defendant £L\$\$-££8-81L New York, New York 10007 59 Duane Street O'Dwyer & Bernstein, LLP

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Attorneys for Plaintiffs

Andrew Grabois, Esq. [AG3192]

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